



Memorandum

To: All Legislators
From: Tom Larson, Director of Regulatory and Legislative Affairs
Date: March 16, 2010
Re: AB 670 – Disclosure of recorded mitigation plans

The Wisconsin REALTORS® Association supports AB 670, legislation that would add to the Real Estate Condition Report a disclosure related to any recorded mitigation plans.

Background

Under current law, sellers of real estate and real estate licensees have a duty to disclose defects and material adverse facts about a property to a prospective buyer. See e.g., Wis. Stat. §709.03; Wis. Stat. § 452.133. This includes information that could have a significant impact on the value, structural integrity of the building, or health/safety of occupants. See Wis. Stat. § 452.01

Under the recent changes to Wisconsin's Shoreland Zoning Regulations (Wis. Admin. Code Ch. NR 115), a property owner must agree to perform some type of mitigation (determined by the County) in exchange for (a) exceeding impervious surface limits, or (b) expanding a nonconforming structure between 35 and 75 feet from the water. See Wis. Admin. Code §§ NR 115.05(1)(e)(3) and 115.05(1)(g)(5)(d)). In addition, the mitigation plan must be recorded with the Register of Deeds office to make sure subsequent property owners are aware of it, and will continue to follow the plan if applicable (e.g., don't mow the grass between 35 feet and water). *Id.*

Because this information could have a significant impact on a Buyer's decision to purchase the property or the price he or she is willing to pay for it, this information should be disclosed. This is current law.

AB 670

Accordingly, AB 670 does not require information about recorded mitigation plans to be disclosed. The bill simply requires this disclosure to be included in the Real Estate Condition Report (RECR). Moreover, by putting this information in the RECR, sellers and real estate licensees will be less likely to forget to disclose this information.

If you have questions, please contact us at (608) 241-2047.